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SUBJECT: Rule of Law Interference Snapshot: Pingnan Green HomeQs
On-going Struggle

REF: Guangzhou 162

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11. (SBU) Summary and Comment: The emergence and continued growth of civil society organizations in China over the past decade appears to support claims that the country's leadership grasps the need to allow greater room for social action and public expression. Still, the challenges these groups face as they attempt to organize and seek enforcement of legislative or judicial remedies also serve to highlight continued bureaucratic interference with the rule of law in China. As a case study, this cable describes the experience of the Pingnan Green Home, a small environment-related civil society organization organized by a "barefoot" doctor and a group of farmers in northern Fujian. The Pingnan Green Home has waged a 15-year struggle against a chemical plant that has polluted surrounding farmland. Although the group has garnered some sympathy at the national level and brought national and local media scrutiny to bear, the Pingnan Green Home has been unable to deliver what the Pingnan farmers need--a sufficiently clean environment to allow them to once again make their livelihoods off the land. Unwilling to enforce court orders, local officials have effectively scuttled rule of law protections available to the farmers. End Summary and Comment.

With Loss of Livelihood and Health, Farmers Organize

12. (U) In the early 1990s, authorities in Fujian's capital city of Fuzhou, determined that Rong Ping Chemical Company, a heavily polluting, state-run chemical factory should be relocated away from Fuzhou. They looked for a site, still in Fujian, but away from major population centers and eventually settled on Pingnan, a small "town" with a population of approximately 100,000 people. Desperate to boost the town's lagging economy and Q-some locals suspect--line their own pocketbooks, Pingnan officials said they would welcome the Rong Ping factory to the community. Shortly afterwards in 1993, the factory, which claims to be the largest gun-powder manufacturer in Asia, producing over 15,000 tons of potassium chlorate and 20,000 tons of sodium chlorate each year, was relocated to Pingnan on a site immediately adjacent to residences and farmland.

¶3. (U) Beginning immediately after the factory's relocation, Pingnan's farmers noticed a sharp deterioration in the area's air quality. Whereas Pingnan's air before had been clear, a thick smog began to blanket the area. Farmers observed that crops, other plants, and trees began to exhibit unusual symptoms. Some withered away and died; others developed deformities or exhibited stunted growth. Fish disappeared from the local streams. The economic impact on the farmers was immediate and direct. Consumers would not buy their "deformed" produce. Still, the farmers persevered, relying increasingly on the more resilient crops and the bamboo groves. Gradually, however, even these crops and the bamboo groves began to die.

¶4. (SBU) At the same time, increasing numbers of Pingnan's residents began to complain of respiratory ailments. Zhang Changjian (protect), a "barefoot doctor" or general practitioner who had been practicing in the area for more than two decades was struck, not only by the increase in respiratory ailments, but also by a sharp increase in the number of deaths of local residents attributable to cancer. Mr. Zhang began compiling a record documenting the increased numbers of health-related problems in Pingnan. Zhang's records show that between 1990-1994, one out of thirteen (or 7.7 %) of the deaths in Pingnan were attributed to cancer. But by the period from 1999-2002, 21 out of 29 (or 72.4%) of Pingnan's deaths were attributed to cancer. Utilizing this data, Zhang founded the Pingnan Green Home, a local, environment civil society organization to represent the farmers and local residents in pursuing claims against the chemical factory.

Officials Suppress Protests, Legal Claims

¶5. (SBU) Solidly aligned in support of the factory, local

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officials, according to Zhang, actively sought to suppress efforts by the Pingnan Green Home to protest or seek compensation. In late 1993, Zhang and supporters of the Pingnan Green Home initiated demonstrations against the factory, the local government, and the local Environmental Protection Bureau. In response, officials had local police closely monitor the activities of the group and use physical force against the demonstrators to discourage participation. Money contributed in support of the farmers and Pingnan Green Home by individuals from surrounding towns and villages was confiscated and retained by the local Urban Administration Department.

¶6. (SBU) According to Zhang, when journalists from the Fujian Daily and Fujian TV expressed interest in reporting on the Pingnan case, they were prohibited from doing so by the Fujian Information Office. A story about Zhang and the Pingnan Green Home was first published in March 2002, almost a decade after the first protests, by a publication called "Fang Yuan Fa Zhi" (Square-Round Rule of Law) published by the China Supreme People's Procuratorate. Following this report, former Chinese Premier Zhu Rongji reportedly requested that the relevant authorities provide assistance in helping Pingnan residents obtain justice. Accordingly, the Legal Aid Center of the China University of Political Science and Law agreed to provide a lawyer and legal assistance to Pingnan Green Home.

¶7. (SBU) In July 2002, China's General Administration of Environmental Protection carried out an investigation of the Rong Ping factory. The investigation resulted in the factory being listed as one of China's fifty-five most serious sources of pollution. In April 2003, a story about the Pingnan farmers was carried on China Central TV's (CCTV) most critical news program "News Probe." Zhang reports that apparently to prevent local residents from watching the program, the entire town's electricity supply was cut off from 17:50 to 23:25 that day in what local authorities described as an "accident." The blackout, itself, generated additional media interest, and a subsequent report was broadcast by Fujian TV on May 10, 2003. In August 2003, the Pingnan case was listed by the State General Administration of Environmental Protection as one of China's ten most critical environmental pollution cases.

¶18. (SBU) In 2004, apparently as a form of retribution for Zhang's role in leading the environmental protests and the increasingly negative media reporting about the factory, the local Public Health Bureau ordered Zhang's infirmary to close. Nevertheless, with support from the Legal Aid Center, the Pingnan Green Home successfully appealed an initial unfavorable ruling issued by the People's Middle Court of Ningde City. In November 2005, the Fujian People's High Court ruled that the Rong Ping factory should pay an indemnification totaling RMB 684,178.20 (roughly US\$82,800 in 2005 dollars) to the 1,721 families in the village, or RMB 60 (US\$7.26) per head. This meager compensation was supposedly intended to cover economic losses including damage to crops-- as well as health-related damages. The Fujian People's High Court also ordered that the factory stop polluting the surrounding areas and immediately install a waste filter to stop the pollutants from being released into the nearby river.

¶19. (U) Note: According to local farmers, prior to the factory's coming to Pingnan, an able farmer in Pingnan, working a 100-square meter plot of land, could earn approximately 10,000 RMB per year (approximately US\$1,462), not including additional income generated by making bamboo handicrafts. On the other hand, the factory employees approximately 200 people, paying an average annual salary of 9,600 RMB (or US\$1,405). End note.

Notwithstanding Legal Victory, Victims Receive Little

¶10. (SBU) According to the farmers, local authorities were not pleased by the High Court's verdict, and they utilized their influence with the local court charged with administering the High

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Court-ordered compensation. Claiming that the damage award would be utilized as a "Natural Disaster Relief Fund" to be distributed to local residents in the future, the Pingnan Township Court refused to release the compensation award. In addition, the Fujian People's Middle Court refused to release litigation and evidence verification deposits that had been submitted by the Pingnan litigants. When local residents protested the lower court's action, the court claimed that the litigants, led by Zhang, had failed to submit a compensation plan that satisfied all local residents.

¶11. (SBU) Xu Kezhu, a professor and deputy director of the Legal Aid Center of the China University of Political Science and Law learned of the local resident's difficulty in receiving the court-ordered compensation. He volunteered his legal services, and after battling the lower court for almost two years, in September 2007, the compensation award of RMB 60 per person was finally released to the local residents. The litigation deposit was not released by the Fujian People's Middle Court until July 2008. During this same period, local authorities jailed Zhang, jobless following the ordered closure of his clinic, for a couple of days in October 2006 and fined him RMB 5,000 as penalty for his protest activities.

Pollution Continues Unabated

¶12. (SBU) Following the court verdict, local residents observed that the Rong Ping factory air and water pollution discharges appeared to diminish. This was short-lived, however, as they soon noticed that levels of air and water pollution again began to worsen. They discovered that the factory resumed discharging pollutants directly into the river by building a second drain next to the original drain in which the court-ordered filter had been installed. This allowed the factory to save on the cost of operating the waste filter and avoid triggering the alarm system installed inside the waste filter. Except when monitored, the company resumed smokestack emissions as before. Comment: During a recent visit in May, factory emissions visibly decreased soon after consulate personnel arrived in Pingnan to meet with the Pingnan Green Home. End comment.

¶13. (SBU) Local residents were even more astonished to learn that

local authorities had approved plans for a major expansion of the Rong Ping plant--an expansion that would allow the factory to build a pollution-prone hydrogen peroxide manufacturing facility. Upon learning of the expansion plan, Zhang led a group of local residents to Beijing, where they described their concerns to the Ministry of Environmental Protection in January 2009. Although the Ministry placed a temporary hold on the expansion plans, construction work at the site continues to progress. The villagers also collected evidence to prove that the factory is again discharging pollutants directly into the river. While the local residents would like to pursue additional legal action against the factory, their volunteer legal advisors, apparently fatigued, have been reluctant to continue to assist.

Fifteen Years Later: Still No Remedy

¶14. (SBU) At present, Pingnan Green Home supporters are highly frustrated. Although they have "won" a court case against the factory, the factory continues to pollute and is moving forward with expansion plans. Local authorities effectively stalled, for years, the payment of the meager court-ordered compensation. The residents' appeals to higher authorities regarding the factory's continuing violations continue to either go unanswered or without a satisfactory answer. Because factory emissions continue to damage crops and plants, farmers are unable to grow produce that they can sell. Many residents have been forced to leave the town to hunt for jobs elsewhere.

¶15. (SBU) Mr. Zhang reports that he has been unsuccessful thus far

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in obtaining permission for his infirmary to reopen. He remains unemployed. In late 2007, the civil society organization set up to represent the farmers, the Pingnan Green Home, was classified as an illegal organization. Pingnan residents have recently organized a new civil society organization, The Pingnan Ecological Agricultural Cooperative, which they hope to use as an educational center promoting environmental protection.

¶16. (SBU) Comment: The dedication of Pingnan Green Home supporters is representative of the efforts of many individuals in Fujian who work tirelessly through grassroots civil society organizations to address social problems. Although these groups are making headway, they work in an environment where there is often considerable bureaucratic resistance and in which the legal system is subject to overt, official interference. Despite his best Erin Brockovich-type efforts, Zhang remains unable to script a happy ending for the Pingnan farmers. End comment.

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